

Serial No. 09/458,322
Page 5 of 9

RECEIVED
CENTRAL FAX CENTER
MAY 10 2007

REMARKS

This response is intended as a full and complete response to the final Office Action mailed March 16, 2007. In the Office Action, the Examiner notes that claims 32-44 are pending and rejected. By this response, Applicants have amended claims 32 and 40 to further clarify Applicants' invention.

In view of the foregoing amendments and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response including amendments.

REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)

Claims 32-44

The Examiner has rejected claims 32-44 under 35 U.S.C. §103(a) as being unpatentable over Mao et al. (U.S. 6,886,178, hereinafter "Mao") in view of Wu et al. (U.S. 6,594,271, hereinafter "Wu") and further in view of O'Loughlin et al. (U.S. 6,185,635, hereinafter "O'Loughlin"). Applicants respectfully traverse the rejection.

Mao, Wu and O'Loughlin, singly or in combination, fail to teach or suggest Applicants' invention as a whole.

Independent claims 32 and 40 have been amended by deleting the words "adapted to" in order to further clarify a feature of the invention. No new matter has been added.

Applicants submit that the amended language does not suggest or make optional the amended feature of the invention, and should adequately address the Examiner's concern on page 5 of the Final Office Action (Response to Arguments).

Serial No. 09/458,322
Page 6 of 9

As stated in the Office Action, Mao does not disclose, among others, "multiplexing of formatted non-content data on a future bandwidth availability basis". Thus, Wu's process of bandwidth allocation using the Opportunistic Data Processor (ODP) is relied on as teaching this missing feature.

Applicants submit that Mao teaches away from the approach of Wu, and the references, even if combined, would have resulted in an arrangement that is contrary to the intended purpose of Mao.

Specifically, Mao teaches that three tables contained in a control map, i.e., non-content data, are needed in order to allow a viewer to navigate among the broadcast and simulcast HTML pages (e.g., Mao, col. 3, lines 42-59). A master control map, the HTML Program Association Table (HPAT), defines the locations of two other tables (HPMT and HEIT), and is provided in a predetermined data packet within a MPEG-2 data stream (e.g., Mao, col. 3, lines 62-67). Once the HPAT is found by the set-top, the other tables containing broadcast or simulcast Web pages can be found based on information in HPAT.

Since HPAT is required in order to locate the other two tables (HPMT and HEIT), it is obvious to one skilled in the art that such a table simply cannot be inserted as part of any opportunistic data stream based on bandwidth availability. Instead, as Mao so clearly teaches, it has to be provided in a predetermined data packet so that it can be found by the set-top, and thus, allow retrieval of the other tables to find desired broadcast or simulcast Web pages (e.g., Mao, col. 7, lines 41-43)

As such, Applicants submit that Mao teaches away from Wu's approach of providing opportunistic data based on available bandwidth. Examiner's suggested combination of Mao with Wu, which would provide Mao's HPAT and other tables (non-content data) as opportunistic data contingent on bandwidth availability, is directly contrary to Mao's teaching of providing HPAT in a predetermined data packet.

Therefore, Applicants submit that not only is there no motivation to combine the teachings of Mao with Wu, but the resulting combination would not have worked as intended by Mao.

Serial No. 09/458,322
Page 7 of 9

The Office Action also stated that Mao in view of Wu does not specifically disclose a transport processor coupled to multiplex switch for transmitting to the multiplex switch reverse data channel information received via a reverse data channel.

Thus, O'Loughlin, Figs. 1-5 and col.6, line 52 - col. 9, line 54 were cited for disclosing a transport processor 12 coupled to multiplex switch for receiving output stream from the multiplex switch and for transmitting to the multiplex switch reverse data channel information (Final Office Action, page 5).

Applicants disagree with such an analogy of O'Loughlin's teaching to Applicants' claimed invention.

Specifically, the cited portions of O'Loughlin disclose a data transportation environment, with consumers being connected to respective bidirectional converters 18, 24 or 26 (or via servers/routers in local area networks, Fig. 1), which are in turn connected to data transport system 12.

Even if O'Loughlin's data transport system 12 and one of converters 26, 18 or 24 in Fig. 1 were interpreted as analogous to Applicants' transport processor and multiplex switch, the arrangement and functional details of O'Loughlin's components are different from Applicants' claimed invention.

For example, Applicants' server equipment provides data to subscriber equipment, with the multiplex switch configured such that its multiplexed output (content and non-content data) is received by the transport processor for transport to subscriber equipment.

By contrast, O'Loughlin's high speed/lower speed converter (HSLSC) 26 provides multiplexed data from the consumer equipment (see Fig. 1 - data consumers 40, 48, 56, and server/routers 38, 44, 50) to the data transport system 12, which is in a direction opposite to that of Applicants' invention. That is, unlike Applicants' invention, the multiplexed output from HSLSC 26 received by transport system 12 is not for transport to the subscribers. Instead, as shown in Fig. 1, the multiplexed output from HSLSC 26 is transported by transport system 12 to other transport systems 14 or 16, but not to subscribers.

555502-1

RECEIVED
CENTRAL FAX CENTER

MAY 10 2007

Serial No. 09/458,322
Page 8 of 9

Even though O'Loughlin shows bidirectional communication between the various components, the data being transported from HSLSC 26 (or alternatively, LSCSC 18, 24) to the consumers or subscribers is demultiplexed data, which is different from the multiplexed output stream in Applicants' claim 32 or 40.

Therefore, even if O'Loughlin were to be combined with Mao and Wu, one would still not have resulted in Applicants' invention, as recited in either claim 32 or 40.

Thus, Mao, Wu and O'Loughlin, singly or in combination, fail to teach or suggest the invention as a whole. As such, Applicants submit that independent claims 32 and 40 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Furthermore, claims 33-39 and 41-44 respectively depend from independent claims 32 and 40 and recite additional limitations thereof. As such, and at least for the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejections be withdrawn.

SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

555502-1

Serial No. 09/458,322
Page 9 of 9

RECEIVED
CENTRAL FAX CENTER
MAY 10 2007

CONCLUSION

Thus, Applicants submit that none of the claims presently in the application, are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 5/10/07



Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808